

Claims 15, 16 and 20 are pending.

Claims 15, 16 and 20 stand rejected

Claims 15 and 16 have been amended.

Claim 21 has been added.

Claims 15, 16, 20 and 21 are hereby submitted for consideration.

No new matter has been added.

In the Office Action the Examiner has rejected claims 15, 16 and 20 under 35 U.S.C. § 102(b) as being anticipated by any one of Pugh (U.S. Patent No. 3,071,303), Wen (U.S. Patent No. 5,482,202), or Cornell (U.S. Patent No. 6,076,729).

Applicant respectfully disagrees with the Examiner's contentions and submits the following remarks in response. Applicant notes that all amendments and new claims are supported in the Application on page 10 of the specification and in Figures 9a and 9b as originally filed.

The present invention is directed to a cap assembly comprised of a container having a plurality of sides and an opening disposed on a top portion of said container, said opening disposed at the top of a first one of the plurality of side walls, where the opening is covered by a cap positionable in an opened and closed position. An extendable straw is provided, having upper and lower portions, where the lower portion is coupled with the first side wall, and where the upper portion is coupled with an inner side of the cap so that when the cap is in an opened position, the straw is available at the opening for use.

The cap is configured to be a scored finger portion. The straw further comprises pleats disposed between the upper portion of the straw located on the cap and the second lower portion disposed along the first side wall so that the straw can bend over a base of the scored finger portion. The top opening of the straw is disposed co-planar with the top side of the scored finger portion.

In this configuration the straw is attached along a single first side of the container overcoming drawbacks associated with the prior art where the lower portion of the straw is on the opposite or even on an unknown side of the container. The present invention allows a user to tilt the container towards themselves in a comfortable natural position assured that the straw will be located at the bottom of the container relative to the fluid contained therein without twisting the container in any uncomfortable configurations.

Additionally, the present invention maintains a flexible portion which prevents the bent straw from kinking within the closed container even though the straw is fixed to a single first side of the container. Furthermore, by arranging the top opening of the straw in a fixed co-planar arrangement with the top side of the scored finger portion cap, the user can easily close the container without having to awkwardly maneuver the straw. Also the user is assured that when re-opened, the straw will be easily accessible on the underside of the scored finger portion cap.

The cited prior art, namely Pugh, is directed to milk carton with a drinking straw. In Pugh, the straw is attached to a saddle connected to the underside of the cap allowing the straw to be loosely connected to the cap such that when the cap is opened, the saddle pulls the straw out of the container, beyond the end of the cap, so the user may drink from the straw. As

illustrated in the Pugh figures, the straw is not connected to the bottom of the container but rather is wedged and bent into place when closed and, when opened, is extended beyond the top of the cap.

The cited prior art, namely Wen, is directed to a drink box with a built in straw. In Wen, a straw is attached to the inside of drink container, with a lower portion attached to one side of the container and an upper portion attached to a triangular disposable section located at the opposite side of the container, such that the triangular portion of the container can be removed pulling the upper portion of the straw out of the container for drinking. The triangular portion is then discarded.

The cited prior art, namely Cornell, is directed to fluid dispensing spout for beverage containers. Cornell is directed to straw disposed within a container, configured to be exposed when a cap portion is opened. In the various embodiments, the straw is freely contained at lower end within the container and the upper end is attached or directed towards a cap region. When the cap is opened, the straw is exposed, unattached to the cap, beyond the top of the cap for the user to drink from.

Contrary to the Examiner's contention, there is no teaching or suggestion in any of the cited prior art, either alone or in combination with one another, which teaches or suggests the present invention as claimed. For example, there is no teaching or suggestion in any one of Pugh, Wen or Cornell which discloses an extendable straw having upper and lower portions, where the lower portion is coupled *with a first side wall*, and where the upper portion is disposed and *coupled with an inner side of the cap disposed at the top of said first side wall*.

Unlike the Pugh reference, not only is the straw not coupled with a first side wall or a cap

at the top of that same first side wall, but as described above, the straw in Pugh is not coupled to the container at all on the bottom portion but rather is wedged and bent into place, possibly damaging the straw. Contrary to the Wen reference which attaches the lower end of the straw to the opposite side of the opening region, the straw of the present invention is coupled along a first side wall and a cap located at the top of that same first side wall. Also, contrary to the Cornell reference, the straw of the present invention is coupled along a first side wall of the container whereas the bottom portion of the Cornell straw is not coupled at all to the container.

Likewise, there is no teaching or suggestion in any one of the cited prior art references which teaches or suggests a straw with a top opening of that straw disposed co-planar with the top side of the scored finger portion. Neither the Pugh nor the Wen reference disclose an opening at the top portion of a straw connected in co-planar fashion with a scored finger portion at all. Additionally, the Wen reference attachment of a straw to the inside of triangular disposable portion is neither in a co-planar arrangement, nor is the triangular portion analogous to a scored finger portion cap, as is evident from its disposability and inability to be re-closed, thus not capable of providing the advantages of the present invention described above.

Therefore, Applicant submits that the cited prior art does not teach or suggest all of the elements of independent claim 15 or claims 16, 20 and 21 which depend therefrom. As such, Applicant respectfully requests that the rejection of claims 15, 16 and 20 under 35 U.S.C. § 102 be withdrawn and that the rejections not be continued with new claim 21.

In view of the aforementioned amendment and remarks, it is respectfully submitted that all claims currently pending in the above identified application are now in condition for allowance, the earliest possible notice of which is earnestly solicited. If in the Examiner's

opinion the prosecution of the present application would be advanced by a telephone interview, he is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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Dated: